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**UNITED STATES DISTRICT COURT**
**CENTRAL DISTRICT OF CALIFORNIA**

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| ROY ABUEG, an individual,<br><br>Plaintiff,<br><br>v.<br><br>TOYOTA MOTOR SALES, U.S.A., INC., a California corporation; TOYOTA OF DOWNTOWN LOS ANGELES; SCION OF DOWNTOWN LOS ANGELES; HK-SHAMMAS AUTOMOTIVE GROUP, LP, a California limited partnership; SHAMMAS AUTOMOTIVE HOLDINGS, INC., a California Corporation, L.A. AUTO DISTRIBUTORS, LP, a California limited partnership; DOWNTOWN L.A. MOTORS, LP, a California limited partnership; and Does 1-10 inclusive,<br><br>Defendants. | **CASE NO.: 2:15-CV-8263**<br><br>**COMPLAINT FOR DECLARATORY RELIEF, INJUNCTIVE RELIEF, AND DAMAGES FOR VIOLATIONS OF:**<br><br>1. Title III of the Americans With Disabilities Act (42 U.S.C. §12182, *et seq*.);<br>2. California's Unruh Civil Rights Act (Cal. Civ. Code 51, *et seq*.); and<br>3. California's Disabled Persons Act (Cal. Civ. Code § 54.1, *et seq*.)<br><br>**JURY TRIAL DEMANDED** |

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# INTRODUCTION

1. Congress enacted the Americans with Disabilities Act (42 U.S.C. § 12101, *et seq.*) (hereinafter, "ADA") on July 12, 1990, establishing the most important civil rights law for people with disabilities in the United States. Among the primary purposes of the ADA is to allow individuals who are deaf or hard of hearing to utilize qualified interpreter services, or other effective auxiliary aids and services, so that they may independently and effectively access places of public accommodation and be treated with dignity and respect.

2. Twenty-five years after the enactment of the ADA, some businesses still repeatedly and willfully violate the ADA, thereby depriving deaf patrons of effective communication and denying them equal access to places of public accommodations. Defendants, the owners, operators, and managers of Toyota of Downtown Los Angeles (hereinafter, "Toyota DTLA Dealership") and Scion of Downtown Los Angeles (hereinafter, "Scion DTLA Dealership"), both located at 1600 S. Figueroa Street, in Los Angeles, California, are such businesses.

3. Plaintiff Roy Abueg, an individual who is deaf, alleges that Defendants failed and refused to take reasonable steps to ensure that he was not excluded, denied services, segregated, or otherwise treated differently than other individuals at the Scion DTLA Dealership. Specifically, Defendants refused to accept Plaintiff's calls placed through an American Sign Language ("ASL") interpreter via a video relay service ("VRS"). Calls placed through a VRS with an ASL interpreter allow deaf persons to communicate with others over the phone (a deaf individual signs to an ASL interpreter via video, and the ASL interpreter then voices what the deaf individual has signed to the party on the other end of the line, and vice versa).

4. Defendants' refusal to accept Plaintiff's calls placed through a VRS with an ASL interpreter violates Title III of the Americans with Disabilities Act (42 U.S.C. § 12182, *et seq.*) and related California civil rights laws. Plaintiff therefore brings this

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action to correct Defendants' unlawful conduct and seeks declaratory relief, injunctive relief, damages, and his attorneys' fees and litigation costs.

**JURISDICTION AND VENUE**

5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343 for claims arising under the ADA.

6. Pursuant to 28 U.S.C. § 1367, this Court has supplemental jurisdiction for claims arising under California law, including the Unruh Civil Rights Act (Cal. Civ. Code § 51, *et seq.*) and the Disabled Persons Act (Cal. Civ. Code § 54.1, *et seq.*), both of which expressly incorporate the ADA. Cal. Civ. Code §§ 51(f), 54.1(d).

7. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because the acts and omissions giving rise to Plaintiff's claims occurred within this District.

**PARTIES**

8. Plaintiff Roy Abueg is, and at all times relevant herein was, a resident of the State of California. Plaintiff has been deaf since birth and is therefore substantially limited in the major life activity of hearing. Plaintiff is, and at all times relevant herein was, a qualified individual with a "disability" as defined under the ADA and its implementing regulations (42 U.S.C. § 12102; 28 C.F.R. § 36.104) and California law (Cal. Gov. Code § 12926).

9. Defendant Toyota Motor Sales, U.S.A., Inc. ("TMS") is, and at all times relevant herein was, a California corporation authorized to do business under the laws of the State of California. TMS is, and at all times relevant herein was, engaged in the business of promoting and selling Toyota and Scion automobiles within the County of Los Angeles, State of California, with its principal place of business located at 19001 South Western Avenue, in the City of Torrance, County of Los Angeles. TMS is, and at all times relevant herein was, responsible, in whole or in part, for the management and operation of both the Toyota DTLA Dealership and Scion DTLA Dealership.

10. Defendant Toyota DTLA Dealership is, and at all times relevant herein was, a car dealership doing business in Los Angeles, California. Toyota DTLA

Dealership is located at 1600 S Figueroa St., Los Angeles, CA 90015. Toyota DTLA Dealership is, and at all times relevant herein was, responsible, in whole or in part, for the management and operation of both the Toyota DTLA Dealership and Scion DTLA Dealership.

11. Defendant Scion DTLA Dealership is, and at all times relevant herein was, a car dealership doing business in Los Angeles, California. Scion DTLA Dealership is located at 1600 S Figueroa St., Los Angeles, CA 90015. Scion DTLA Dealership is, and at all times relevant herein was, responsible, in whole or in part, for the management and operation of both the Scion DTLA Dealership and Toyota DTLA Dealership.

12. HK-Shammas Automotive Group, LP is, and at all times relevant herein was, a limited partnership doing business in the State of California. HK-Shammas Automotive Group, LP is, and at all times relevant herein was, an owner of both the Toyota DTLA Dealership and Scion DTLA Dealership. HK-Shammas Automotive Group, LP is, and at all times relevant herein was, responsible, in whole or in part, for the management and operation of both the Toyota DTLA Dealership and Scion DTLA Dealership.

13. Shammas Automotive Holdings, Inc. is, and at all times relevant herein was, a California corporation doing business in the State of California. Shammas Automotive Holdings, Inc. is, and at all times relevant herein was, an owner of both the Toyota DTLA Dealership and Scion DTLA Dealership. Shammas Automotive Holdings, Inc. is, and at all times relevant herein was, responsible, in whole or in part, for the management and operation of both the Toyota DTLA Dealership and Scion DTLA Dealership.

14. L.A. Auto Distributors, LP is, and at all times relevant herein was, a limited partnership doing business in the State of California. L.A. Auto Distributors, LP is, and at all times relevant herein was, an owner of both the Toyota DTLA Dealership and Scion DTLA Dealership. L.A. Auto Distributors, LP is, and at all

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times relevant herein was, responsible, in whole or in part, for the management and operation of both the Toyota DTLA Dealership and Scion DTLA Dealership.

15. Downtown L.A. Motors, LP is, and at all times relevant herein was, a limited partnership doing business in the State of California. Downtown L.A. Motors. LP is, and at all times relevant herein was, an owner of both the Toyota DTLA Dealership and Scion DTLA Dealership. Downtown L.A. Motors, LP is, and at all times relevant herein was, responsible, in whole or in part, for the management and operation of both the Toyota DTLA Dealership and Scion DTLA Dealership.

16. Plaintiff is currently unaware of the true identities of DOES 1-10, inclusive, and will seek leave to amend when their true names, capacities, connections, and responsibilities are ascertained.

17. Plaintiff is informed and believes that each of the Defendants is the agent, ostensible agent, alter ego, master, servant, trustor, trustee, employer, employee, representative, franchiser, franchisee, lessor, lessee, joint venturer, parent, subsidiary, affiliate, related entity, partner, and/or associate, or such similar capacity, of each of the other Defendants, and was at all times acting and performing, or failing to act or perform, within the course and scope of such similar aforementioned capacities, and with the authorization, consent, permission or ratification of each of the other Defendants, and is personally responsible in some manner for the acts and omissions of the other Defendants in proximately causing the violations and damages complained of herein, and have participated, directed, and have ostensibly and/or directly approved or ratified each of the acts or omissions of each of the other Defendants, as herein described.

## FACTUAL BACKGROUND

18. Plaintiff has been deaf since birth and uses American Sign Language ("ASL") as his primary language.

19. Because he is deaf, Plaintiff must place telephone calls through a video relay service ("VRS") with an ASL interpreter in order to effectively communicate

with the party on the other end of the line (the receiving party). Without the VRS and ASL interpreter, Plaintiff cannot effectively communicate using a telephone.

20. A VRS telephone call allows Plaintiff to effectively communicate with the receiving party because it uses the ASL interpreter as an intermediary. A video feed connects the ASL interpreter and Plaintiff, allowing them to communicate using ASL. At the same time, an audio feed connects the ASL interpreter and the receiving party, allowing the ASL interpreter and the receiving party to communicate via voice. Once a call has been placed, Plaintiff signs to the ASL interpreter what he wants to communicate to the receiving party and the ASL interpreter then voices this communication to the receiving party, and vice versa. When the receiving party answers a VRS telephone call placed by Plaintiff, the ASL interpreter announces that the caller is using an ASL interpreter.

21. On or about July 16, 2015, shortly before 4:00 p.m., Plaintiff placed a VRS telephone call to the Scion DTLA Dealership in order to inquire about a vehicle he intended to purchase. When Defendants' receptionist answered the call, the ASL interpreter announced that the caller (Plaintiff) was using an ASL interpreter. The receptionist immediately placed the call on hold and then hung up.

22. Minutes after being hung up on, Plaintiff placed a second VRS telephone call to the Scion DTLA Dealership. The ASL interpreter again announced that the caller (Plaintiff) was using an ASL interpreter. The same receptionist answered with a rude attitude. Plaintiff asked if he could speak with the financial manager at the Scion DTLA Dealership and the receptionist stated "Carla" (or "Karla") and transferred Plaintiff's call without saying anything more. When Carla/Karla answered the VRS telephone call, the ASL interpreter announced to Carla/Karla that the caller was using an ASL interpreter. Carla/Karla immediately hung up.

23. Minutes after being hung up on for the second time, Plaintiff placed a third VRS telephone call to the Scion DTLA Dealership. Once again, the ASL interpreter announced that the caller (Plaintiff) was using an ASL interpreter. The

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same receptionist rudely answered the call and Plaintiff explained to the receptionist that Carla/Karla hung up on him when his prior call was transferred to her. The receptionist yelled, "If they hung up on you, [there's] nothing I can do!" and transferred his call to Carla/Karla without saying anything more. Carla/Karla did not answer the phone this time.

24. Minutes later, Plaintiff placed a fourth VRS telephone call to the Scion DTLA Dealership. The ASL interpreter again announced that the caller (Plaintiff) was using an ASL interpreter. The same receptionist rudely answered the call. When Plaintiff informed the receptionist that no one answered his call after it was transferred to Carla/Karla, the receptionist again yelled at Plaintiff that there was nothing that she could do and said that she would transfer his call to the general manager for the Scion DTLA Dealership, Richard Romero. After Mr. Romero answered the transferred call, the ASL interpreter announced that the caller (Plaintiff) was using an ASL interpreter. Mr. Romero immediately hung up.

25. Frustrated, embarrassed, and humiliated that the employees at the Scion DTLA Dealership refused to accept his VRS telephone calls, Plaintiff complained to Toyota directly by calling the "Contact Us" phone number listed on the Toyota website (www.toyota.com). Plaintiff spoke to a Toyota employee named Jesse Calloway, who accepted Plaintiff's VRS telephone call. Plaintiff explained the discrimination he had just experienced from the employees at the Scion DTLA Dealership to Mr. Calloway and asked Mr. Calloway to listen in as Plaintiff tried for the fifth time to receive assistance from the Scion DTLA Dealership. Mr. Calloway agreed to listen in on the call.

26. When Plaintiff placed a fifth VRS telephone call to the Scion DTLA Dealership, the same receptionist rudely answered the call. After Plaintiff explained to the receptionist that Mr. Romero hung up on his prior call, the receptionist yelled at Plaintiff that there was nothing that she could do about it. The receptionist again transferred the call to Mr. Romero.

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27. After Mr. Romero answered the VRS telephone call, Plaintiff explained to Mr. Romero that the staff at the Scion DTLA Dealership was treating Plaintiff with disrespect and were refusing to accept his VRS telephone calls. Mr. Romero rudely refuted Plaintiff's allegations. At this point, Mr. Calloway interrupted Mr. Romero and informed Mr. Romero that he had been listening in on the call to determine whether the Scion DTLA Dealership would provide customer service to Plaintiff. Mr. Calloway then explained to Mr. Romero that it was against the law to refuse service to customers with disabilities. Mr. Romero did not say anything thereafter and the parties ended the call.

28. After the call with Mr. Romero ended, Mr. Calloway helped Plaintiff file an internal complaint with Toyota regarding the discrimination Plaintiff experienced at the Scion DTLA Dealership.

29. As the direct and proximate result of Defendants' acts and omissions, described herein, Plaintiff was excluded from and denied equal access to Defendants' programs, services, and goods. He was made to feel isolated, subjected to inferior treatment and services, and otherwise treated differently and less favorably than hearing individuals. This, in turn, caused Plaintiff to experience emotional distress, inconvenience, frustration, embarrassment, humiliation, out-of-pocket expenses, and a loss of civil rights.

30. Plaintiff wishes to purchase or lease a vehicle from Defendants and discuss the available financing options. Until Defendants' discriminatory policies are modified, Plaintiff will continue to be prevented and deterred from participating in and benefitting from Defendants' goods, services, programs, and activities solely by reason of his disability.

31. Unless enjoined, Defendants will continue to engage in the unlawful acts and pattern and practice of discrimination described above. Plaintiff has no adequate remedy at law. Accordingly, Plaintiff is entitled to injunctive relief.

32. An actual controversy has arisen and now exists between the parties concerning their respective rights, duties, and obligations under Federal and State law. Accordingly, Plaintiff is entitled to declaratory relief.

## FIRST CAUSE OF ACTION

**(Title III of the Americans with Disabilities Act, 42 U.S.C. § 12182, *et seq*.)**

**(Against All Defendants)**

33. Plaintiff incorporates by reference all preceding paragraphs.

34. The ADA was passed more than two decades ago "to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities." 42 U.S.C. § 12101(b)(1). In enacting the ADA, Congress found that discrimination against persons with disabilities "persists in such critical areas as . . . public accommodations . . . ." 42 U.S.C. § 12101(a)(3).

35. Title III of the ADA provides that "No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation." 42 U.S.C. § 12182(a).

36. Title III of the ADA further provides that "A public accommodation shall take those steps that may be necessary so that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the public accommodation can demonstrate that taking those steps would fundamentally alter the nature of the good, service, facility, privilege, advantage, or accommodation being offered or would result in an undue burden." 42 U.S.C.§12182(b)(2)(A)(iii).

37. As a vehicle sales business, Defendants are a "sales or rental establishment." As such, Defendants are a "place of public accommodation" for purposes of Title III. 42 U.S.C. § 12181(7)(E).

38. Defendants have discriminated against Plaintiff on the basis of his

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disability in violation of Title III of the ADA. Defendants' discriminatory conduct includes, *inter alia*:

a. Directly, or through contractual, licensing, or other arrangements, excluding or denying Plaintiff the goods, services, facilities, privileges, advantages, accommodations, and/or opportunities offered by Defendants, on the basis of his disability. 42 U.S.C. § 12182(b)(1)(A)(i);

b. Failing to make reasonable modifications in policies, practices, or procedures as necessary to afford Plaintiff with the goods, services, facilities, privileges, advantages, or accommodations offered by Defendants. 42 U.S.C. § 12182(b)(2)(A)(ii); and

c. Failing to take the steps necessary to ensure that Plaintiff is not excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services. 28 C.F.R. § 36.303(a);

39. Defendants' duties under the ADA are mandatory and long-established. Defendants are deemed to have had knowledge of their duties at all times relevant herein. Defendants failed to carry out the duties imposed on them by the ADA willfully, knowingly, and/or with deliberate indifference.

40. Pursuant to the remedies, procedures, and rights set forth in 42 U.S.C. § 12188 and 42 U.S.C. § 12205, Plaintiff prays for judgment as set forth in the Prayer for Relief.

## SECOND CAUSE OF ACTION

**(Unruh Civil Rights Act, California Civil Code § 51, *et seq.*)**

**(Against All Defendants)**

41. Plaintiff incorporates by reference all preceding paragraphs.

42. The Unruh Civil Rights Act ("Unruh Act") guarantees, *inter alia*, that persons with disabilities are entitled to full and equal accommodations, advantages,

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facilities, privileges, or services in all business establishments of every kind whatsoever within the jurisdiction of the State of California. Cal. Civ. Code § 51(b).

43. A violation of the ADA is also a violation of the Unruh Act. Cal. Civ. Code § 51(f).

44. Both the Toyota DTLA Dealership and Scion DTLA Dealership are business establishments under the Unruh Act.

45. As the owners and operators of both the Toyota DTLA Dealership and Scion DTLA Dealership, Defendants must comply with the provisions of the Unruh Act.

46. Defendants have violated the Unruh Act by, *inter alia*, denying, or aiding or inciting the denial of, Plaintiff's rights to full and equal use of the accommodations, advantages, facilities, privileges, or services offered at both the Toyota DTLA Dealership and Scion DTLA Dealership.

47. Defendants have further violated the Unruh Act by denying, or aiding or inciting the denial of, Plaintiff's rights to equal access arising from the provisions of the ADA.

48. Defendants' duties under the Unruh Act are mandatory and long-established. Defendants are deemed to have had knowledge of their duties at all times relevant herein. Defendants failed to carry out the duties imposed on them by the Unruh Act willfully, knowingly, and/or with deliberate indifference.

49. Pursuant to the remedies, procedures, and rights set forth in Cal. Civ. Code § 52, Plaintiff prays for judgment as set forth in the Prayer for Relief.

**THIRD CAUSE OF ACTION**

**(California Disabled Persons Act, California Civil Code § 54.1, *et seq.*, for statutory damages and attorneys fees only)**

**(Against All Defendants)**

50. Plaintiff incorporates by reference all preceding paragraphs.

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51. The California Disabled Persons Act ("CDPA") provides that "[i]ndividuals with disabilities shall be entitled to full and equal access, as other members of the general public, to accommodations, advantages, facilities, and privileges of all . . . places of public accommodation." Cal. Civ. Code § 54.1(a)(1).

52. A violation of the ADA is also a violation of the CDPA. Cal. Civ. Code, § 54.1(d).

53. Both the Toyota DTLA Dealership and Scion DTLA Dealership are places of public accommodation subject to the CDPA.

54. As the owners and operators of both the Toyota DTLA Dealership and Scion DTLA Dealership, Defendants must comply with the provisions of the CDPA.

55. Defendants have violated the CDPA by, *inter alia*, denying, or aiding or inciting the denial of, Plaintiff's rights to full and equal use of the accommodations, advantages, facilities, privileges, or services offered at both the Toyota DTLA Dealership and Scion DTLA Dealership

56. Defendants have further violated the CDPA by denying, or aiding or inciting the denial of, Plaintiff's rights to equal access arising from the provisions of the ADA.

57. Defendants' duties under the CDPA are mandatory and long-established. Defendants are deemed to have had knowledge of their duties at all times relevant herein. Defendants failed to carry out the duties imposed on them by the CDPA willfully, knowingly, and/or with deliberate indifference.

58. Pursuant to the remedies, procedures, and rights set forth in Cal. Civ. Code § 54.3(a), Plaintiffs pray for judgment as set forth in the Prayer for Relief.

## PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

1. Declare that Defendants' policies and practices discriminate against Plaintiff in violation of the ADA and California civil rights laws;

2. Issue an injunction ordering Defendant to:

a. develop, adopt, and implement non-discrimination policies;

b. develop, adopt, and implement policies regarding the provision of effective communication to people who are deaf / hard of hearing;

c. train Defendants' personnel regarding their obligations to provide communication access to individuals who are deaf / hard of hearing and the policies developed, adopted, and implemented pursuant to (a) and (b), above.

3. Award Plaintiff special, general, compensatory, and statutory damages in an amount within the jurisdiction of this court;

4. Award Plaintiff attorneys' fees, litigation expenses, and costs of suit, as provided by law; and

5. Award such other and further relief as the Court may deem just and proper.

*6. __Note__: the Plaintiff is not invoking section 55 of the California Civil Code and is __not__ seeking injunctive relief under the California Disabled Persons Act.*

## DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff hereby demands a trial by jury as to all issues.

Dated: October 22, 2015

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